APPELLATE COURT

OF THE

STATE OF CONNECTICUT

AC 42061
AC 42062

STATE

Appellee

vs.

WILLIAM HYDE BRADLEY

Defendant-Appellant.

REPLY BRIEF OF DEFENDANT- APPELLANT

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I. FACTS AND PROCEDURAL HISTORY

On or about January 4, 2019, the Defendant-Appellant, Mr. William Bradley, filed his principal brief, wherein he argued that the trial court (Keegan, J.) had erroneously denied his Motion to Dismiss. As Mr. Bradley maintained, the State's prohibition against cannabis is based in a racially discriminatory purpose, rendering it an unconstitutional violation of the Equal Protection clause. The State's prosecution and conviction of Mr. Bradley pursuant to an unconstitutional statute is a violation of Mr. Bradley's due process rights.

On or about April 4, 2019, the State filed its brief contesting Mr. Bradley's standing to raise such a claim, and further disputing that Connecticut's prohibition against cannabis was motivated by racial animus. Mr. Bradley now respectfully replies to the same.

II. ARGUMENT

A. Mr. Bradley has Standing

The State now claims, contrary to the trial court's determination, that Mr. Bradley lacks standing to raise the claim that cannabis prohibition violates the equal protection clause. Specifically, the State asserts: "The trial court erred in finding that the non-minority defendant has standing to claim a violation of the equal protection rights of minorities." State's Brief at 2. The State devotes the substance of its argument to attacking Mr. Bradley's ability to vindicate the rights of third parties. State's Brief at 2-6. The State posits:

> Because the defendant had no legal interest in the disparate treatment of minorities and suffered no injury in fact, because he had no close relation to minority defendants and thus no more than a general interest in the statute, and because minorities are fully able to protect their own rights, he had not

standing to assert their equal protection rights. State's Brief at 4-5.

The trial court had previously rejected this argument, agreeing with Mr. Bradley that: "As our Supreme Court has repeatedly concluded, 'a genuine likelihood of criminal liability or civil incarceration is sufficient to confer standing [to challenge a statute].'(Emphasis added; internal quotation marks omitted.) *State v. Long, supra*, 268 Conn. 532..." Bradley, at *8. The State contends that the trial court's reliance on Long was misplaced. State's Brief at 5. To the contrary, it is the State's application of the Connecticut Supreme Court's holding in Long which is in error. The State attempts to differentiate Long by arguing that it applies only to "parties advocating their own rights, rather than those of third parties." State's Brief at 5. Yet, as Mr. Bradley has consistently argued, and with which the trial court concurred, Mr. Bradley is in fact advocating his own behalf- not to prosecuted under an unconstitutional statute, not the rights of third parties. It is only the State who continues to insist that Mr. Bradley must establish third-party standing, in its steadfast refusal to recognize that Mr. Bradley, as did the defendant in Long, has "a specific, personal and legal interest" in challenging the constitutionality of the statute. Long, at 532.

In seeking to distinguish the other cases cited by the trial court in support of Mr. Bradley's standing, the State postulates: "...defendant here makes no claim that any disparate impact in the statute interferes with his own rights." State's Brief at 5. See also State's Brief at 4: "...defendant here did not allege, and the trial court never found, that he had a close relationship to minority marijuana sellers...As such, the defendant has no more specific, personal or legal interest in preventing discrimination against minorities than other member of the general public..." "Because the defendant had no legal interest in the disparate treatment of minorities and suffered no injury in fact, because he had no close

relation to minority defendants and thus *no more than a general interest in the statute*, and because minorities are fully able to protect their own rights, he had no standing to assert their equal protection rights." (Emphasis added).

The State's misapprehension of Mr. Bradley's claim leads it to the conclusory opinion that: "...the fact that the defendant faced criminal liability was insufficient by itself to allow him to raise the rights of minority defendants..." State's Brief at 6. Not only does the State's analysis miss the mark, it is unequivocally contradicted by clearly established jurisprudence. "...any...defendant [] has a personal right not to be convicted under a constitutionally invalid law...Due process...is a guarantee that a man should be tried and convicted only in accordance with valid laws of the land." Bond v. United States, 564 U.S. 211, 226 (2011)(Ginsburg, J. concurring)(Internal citations and quotations omitted). Mr. Bradley moved to dismiss the charges against him because the State's prohibition against cannabis was based in a racially discriminatory purpose, which means it violates the Equal Protection Clause. Mr. Bradley has standing to contest the constitutionally of the statute under which he was being prosecuted, regardless of his race. "Our decisions concerning criminal laws infected with discrimination are illustrative. ***The Court must entertain the objection--and reverse the conviction--even if the right to equal treatment resides in someone other than the defendant.***" (Emphasis added) Bond, supra. at 227. (Ginsburg, J. concurring) citing Eisenstadt v. Baird, 405 U.S. 438 (1972)(reversing conviction for distributing contraceptives because the law banning distribution violated the recipient's right to equal protection); Craig v. Boren, 429 U.S. 190, 192 (1976)(law penalizing sale of beer to males but not females aged 18 to 20 could not be enforced against vendor). See also

Board of Pardons v. Freedom of Information Com., 210 Conn. 646, 650 (1989): "A genuine likelihood of criminal liability or civil incarceration is sufficient to confer standing." Indeed, it is black letter law that: "An unconstitutional law is void, and is as no law. An offence created by it is not a crime. A conviction under it is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment." Ex parte Siebold, 100 U.S. 371, 376-377 (1879).

The statute at issue, the criminalization of cannabis, is not unconstitutional because it perpetuates a disproportionate *effect* based on racial classification, although it does. It is unconstitutional because it was passed with a racially discriminatory *purpose*. Generally, "To implicate the equal protection clauses under the state and federal constitutions...it is necessary that the state statute in question, either on its face or in practice, treat persons standing in the same relation to it differently..." (Internal citations and quotations omitted) State v. Angel C., 245 Conn. 93, 125 (1998). "Nevertheless, we have not held that a law, neutral on its face and serving ends otherwise within the power of government to pursue, is invalid under the Equal Protection Clause simply because it may affect a greater proportion of one race than of another. Disproportionate impact is not irrelevant, but it is not the sole touchstone of an invidious racial discrimination forbidden by the Constitution." Wash. v. Davis, 426 U.S. 229, 242 (1976). Instead, "...for the Equal Protection Clause to be violated, the invidious quality of a law claimed to be racially discriminatory must ultimately be traced to a racially discriminatory purpose." (Internal citations and quotations omitted) Rogers v. Lodge, 458 U.S. 613, 617 (1982).

Although the State ostensibly cites the two-prong inquiry that courts utilize to determine if a party possess the requisite standing to challenge an unconstitutional

statute,[1] it entirely fails to assess Mr. Bradley's claim within that framework.

> The essence of the standing question, in its constitutional dimension, is whether the plaintiff has alleged such a personal stake in the outcome of the controversy as to warrant his invocation of federal-court jurisdiction and to justify exercise of the court's remedial powers on his behalf...The plaintiff must show that he himself is injured by the challenged action of the defendant. The injury may be indirect...but the complaint must indicate that the injury is indeed fairly traceable to the defendant's acts or omissions. (Internal citations and quotations omitted) Village of Arlington Heights v. Metro. Hous. Dev. Corp., 429 U.S. 252, 260-261 (1977).

See also State v. Pierson, 208 Conn. 683, 687 (1988):

> Standing is the legal right to set judicial machinery in motion. One cannot rightfully invoke the jurisdiction of the court unless he has, in an individual or representative capacity, some real interest in the cause of action, or a legal or equitable right, title or interest in the subject matter of the controversy...The question of standing does not involve an inquiry into the merits of the case. It merely requires the party to make allegations of a colorable claim of injury to an interest which is arguably protected or regulated by the statute or constitutional guarantee in question. (Internal citations and quotations omitted)

Here, the injury that Mr. Bradley has suffered- and the entitlement for standing to pursue these claims- is his arrest and prosecution under an unconstitutional statute.

> The fundamental test for determining [classical] aggrievement encompasses a well-settled twofold determination: First, the party claiming aggrievement must successfully demonstrate a specific, personal and legal interest in [the challenged action], as distinguished from a general interest, such as is the concern of all members of the community as a whole. Second, the party claiming aggrievement must successfully establish that this specific personal and legal interest has been specially and injuriously affected by the [challenged action]....Aggrievement is established if there is a possibility, as distinguished from a certainty, that some legally protected interest...has been adversely affected. Eder Bros. v. Wine Merchs. of Conn., Inc., 275 Conn. 363, 369-370 (2005).

Mr. Bradley clearly possesses a "specific, personal and legal interest in [the challenged

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[1] State's Brief at 3.

action]" and injury to the same; he was incarcerated and convicted under the challenged statute. This is sufficient to confer standing. "Standing requires no more than a colorable claim of injury; a [party] ordinarily establishes...standing by allegations of injury. Similarly, standing exists to attempt to vindicate arguably protected interests." (Internal citations and quotations omitted) State v. Decaro, 252 Conn. 229, 253-254 (2000).

This case does not present a question of discriminatory enforcement of a validly enacted criminal statute. See i.e. McCleskey v. Kemp, 481 U.S. 279 (1987)(Petitioner alleged his capital sentence was unconstitutional based on a complex statistical study that indicated a risk that racial considerations entered into capital sentencing determinations). The injury that Mr. Bradley faced, and his entitlement to challenge the constitutionality of the statute, was the criminal action pending against him, and now the resultant conviction under an unconstitutional statute. "...members of a class whose constitutional rights are endangered by a statute may ask to have it declared unconstitutional." Shaskan v. Waltham Industries Corp., 168 Conn. 43, 49 (1975). Mr. Bradley moved to dismiss the prosecution against him because the statute itself is unconstitutional, and thus he cannot lawfully be convicted of its violation. "A motion to dismiss...properly attacks the jurisdiction of the court, essentially asserting that the [state] cannot as a matter of law and fact state a cause of action that should be heard by the court..." (Internal citations and quotations omitted) State v. Cyr, 291 Conn. 49, 56 (2009). Such is the case with a prosecution pursuant to an unconstitutional statute. "A conviction under an unconstitutional law is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment." (Internal citations and quotations omitted) Montgomery v. Louisiana, 136 S. Ct. 718, 730 (2016). "The United States Supreme Court has specifically stated that given a valid

conviction, the criminal defendant has been constitutionally deprived of his liberty..." (Internal citations and quotations omitted) State v. Davis, 190 Conn. 327, 337-338 (1983). Correspondingly, absent a valid conviction, the deprivation of liberty is an unconstitutional violation of a defendant's fundamental rights.

By way of example, in Stenberg v. Carhart, 530 U.S. 914 (2000), Dr. Carhart, a Nebraska physician who performed abortions in a clinical setting, brought a lawsuit in Federal District Court seeking a declaration that the Nebraska statute criminalizing the performance of "partial birth abortions" violated the Federal Constitution, and asking for an injunction forbidding its enforcement. Dr. Carhart argued that the statute violated the Due Process Clause of the Fourteenth Amendment "because it prevents Carhart's patients from choosing, with his advice, a safe and desired method of terminating a pregnancy before viability." Carhart v. Stenberg, 972 F. Supp. 507, 520 (1997).[2] Dr. Carhart was not a woman seeking an abortion- i.e. an individual whose constitutional rights he argued were violated by the statute, but was an individual who could be prosecuted under a law that violated the constitution. See Carhart v. Stenberg, 11 F. Supp. 2d 1099, 1119 (Neb. Dist. Ct. 1998): "Carhart fears prosecution under LB 23 because the Nebraska Attorney General's Office and the State Department of Health are both aware of, and have investigated, his performance of abortions in the past." As the United States Supreme Court posited: "...using this law some present prosecutors and future Attorneys General may choose to pursue physicians who use D&E procedures... All those who perform

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[2] Notably, the District Court found that the physician had standing for himself, as well as third party standing, because there was a threat of irreparable harm to the physician and his patients, as the physician "has a strong personal stake in the argument." Id. at 521.

abortion procedures using that method must fear prosecution, conviction, and imprisonment." Stenberg v. Carhart, 530 U.S. 914, 945 (2000). The United States Supreme Court found that the statute violated the Federal Constitution, specifically a woman's Due Process right to decide to terminate her pregnancy, yet it was the doctor who faced prosecution under the statute who successfully contested its constitutionality. Id. at 930. See also Doe v. Bolton, 410 U.S. 179, 188 (1973):

> Inasmuch as Doe and her class are recognized, the question whether the other appellants -- physicians, nurses, clergymen, social workers, and corporations -- present a justiciable controversy and have standing is perhaps a matter of no great consequence. We conclude, however, that the physician-appellants, who are Georgia-licensed doctors consulted by pregnant women, also present a justiciable controversy and do have standing despite the fact that the record does not disclose that any one of them has been prosecuted, or threatened with prosecution, for violation of the State's abortion statutes. ***The physician is the one against whom these criminal statutes directly operate in the event he procures an abortion that does not meet the statutory exceptions and conditions. The physician-appellants, therefore, assert a sufficiently direct threat of personal detriment***. (Emphasis added) Id. at 188.

Carey v. Population Servs. Int'l, 431 U.S. 678 (1977)(Finding that appellee Population Planning Associates, Inc. (PPA), corporation primarily engaged in the mail-order retail sale of nomedical contraceptive devices from its offices in North Carolina, had the requisite standing to challenge a state statute criminalizing the sale or distribution of nonprescription contraceptives to persons under 16, which statute was unconstitutional under the First and Fourteenth Amendments)("...PPA has standing to challenge § 6811(8), not only in its own right but also on behalf of its potential customers..." Id. at 683). Interestingly in Carey, the United States Supreme Court described its holding in Craig v. Boren, 429 U.S. 190 (1976), cited supra., as recognizing the beer vendor's standing *individually* and on behalf of third-

parties. Carey, at 683:

> Craig held that a vendor of 3.2% beer had standing to challenge *in its own right and as advocate for the rights of third persons*, the gender-based discrimination in a state statute that prohibited sale of the beer to men, but not to women, between the ages of 18 and 21. In this case, as did the statute in Craig, § 6811(8) inflicts on the vendor PPA "injury in fact" that satisfies Art. III's case-or-controversy requirement, since "[t]he legal duties created by the statutory sections under challenge are addressed directly to vendors such as [PPA. It] is obliged either to heed the statutory [prohibition], thereby incurring a direct economic injury through the constriction of [its] market, or to disobey the statutory command and suffer" legal sanctions. (Emphasis added)

Consequently, regardless of his race, Mr. Bradley has standing to protest *his* prosecution under an unconstitutional statute. "It is axiomatic that one has standing to litigate his or her own due process rights." Campbell v. La., 523 U.S. 392 , 400 (1998). Certainly, "There is little societal interest in permitting the criminal process to rest at a point where it ought properly never to repose." Mackey v. United States, 401 U.S. 667, 693 (1971)(Harlan, J., concurring and dissenting).

B. The Prohibition Against Cannabis is Based in a Racially Discriminatory Purpose

In disputing Mr. Bradley's argument that cannabis prohibition is based in a racially discriminatory purpose, the State espouses: "Although the defendant relies in part on legislative history to show discriminatory purpose...attempts to glean intent from legislative history must be undertaken with caution." State's Brief at 8. The State then cites to United States v. Public Utilities Com., 345 U.S. 295 (1953) in support of its position. State's Brief at 8. In United States v. Public Utilities Com., however, the United States Supreme Court was addressing a question of *statutory interpretation*, not discriminatory intent, as the court is asked to do in this case.

The State's objection to Mr. Bradley's invocation of legislative history is directly at

odds with the methodology mandated by the United States Supreme Court in Village of Arlington Heights v. Metro. Hous. Dev. Corp., 429 U.S. 252 (1976) to determine whether there was discriminatory intent. As the United States Supreme Court held in Village of Arlington Heights:

> Determining whether invidious discriminatory purpose was a motivating factor demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available...The historical background of the decision is one evidentiary source, particularly if it reveals a series of official actions taken for invidious purposes...The specific sequence of events leading up to the challenged decision also may shed some light on the decisionmaker's purposes...*The legislative or administrative history may be highly relevant, especially where there are contemporary statements by members of the decisionmaking body, minutes of its meetings, or reports*...The foregoing summary identifies, without purporting to be exhaustive, subjects of proper inquiry in determining whether racially discriminatory intent existed. (Emphasis added) Id., at 266-267.

Thus, the State's supposition that: "Even when courts do look to legislative history, they normally do so to determine what vice the law was trying to remedy, rather than whether a facially neutral statute was in fact motivated by an improper discriminatory purpose..."[3] is entirely *ipse dixit*.

Even as the State quotes Hunter v. Underwood, 471 U.S. 222, 228 (1985)[4] citing to United States v. O'Brien, 391 U.S. 367, 383-384 (1968),[5] in support of its claim, it fails to read on from the cited passage in Hunter, wherein the United States Supreme Court concluded:

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[3] State's Brief at 8-9.

[4] As Mr. Bradley argued in his principal brief, the United States Supreme Court's decision in Hunter is instructive in this matter. Appellant's Brief at 23-24.

[5] State's Brief at 9.

> But the sort of difficulties of which the Court spoke in *O'Brien* do not obtain in this case. Although understandably no "eyewitnesses" to the 1901 proceedings testified, testimony and opinions of historians were offered and received without objection. These showed that the Alabama Constitutional Convention of 1901 was part of a movement that swept the post-Reconstruction South to disenfranchise blacks...The delegates to the all-white convention were not secretive about their purpose. Hunter, at 228-229.

Similarly, in this case, there can be no legitimate debate that the Uniform State Narcotic Drug Act was motivated by racial animus. See e.g. Appellant's Brief at 12-14 quoting Commissioner Anslinger: "The primary reason to outlaw marijuana is its effect on the degenerate races." See also Alex Kreit, Drug Truce, 77 Ohio St. L. J. 1323, 1342 (2016):

> ...many early drug laws were passed expressly for the purpose of discriminating against minority populations. An 1886 court opinion considering the constitutionality of a ban on opium dens, for example, observed that the law "proceeds more from a desire to vex and annoy the 'Heathen Chinee' [sic] . . . than to protect the people from the evil habit." Similarly, a 1929 hearing at the Montana state legislature on marijuana prohibition featured testimony from a doctor who joked that:
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> > [w]hen some beet field peon takes a few rares of this stuff, . . . [h]e thinks he has just been elected president of Mexico so he starts out to execute all his political enemies. I understand that over in Butte where the Mexicans often go for the winter they stage imaginary bullfights in the 'Bower of Roses' or put on tournaments for the favor of 'Spanish Rose' after a couple of whiffs of Marijuana.

Then, as the State **concedes**, the Connecticut Legislature adopted the Uniform State Narcotic Drug Act. State's Brief at 9. The State cannot admit that it adopted legislation rooted in racial animus and then deny that Connecticut's cannabis prohibition has discriminatory purpose.

The State also argues that the historical passages cited in Mr. Bradley's brief demonstrate that "a motivating factor here appears to have been that lawmakers believed,

rightly or wrongly, that marijuana was addictive and/or dangerous." State's Brief at 10 citing Appellant's Brief at 5-13. As Mr. Bradley's brief recounts, however, cannabis was not considered "addictive and/or dangerous" prior to Commissioner Anslinger's racist campaign. To the contrary, as detailed in Mr. Bradley's brief, cannabis was widely and openly used, both medicinally and otherwise, for centuries prior to its prohibition. Indeed, as Mr. Bradley argued, cannabis prohibition proceeded despite the medical community's testimony that it was not "addictive and/or dangerous." See e.g. Appellant's Brief at 14-15: "In fact, Dr. William C. Woodward, a representative of the American Medical Association, specifically objected to the passage of the Marihuana Tax Act, citing the lack of scientific evidence linking marijuana and crime."

Even accepting the State's argument that "a motivating factor here appears to have been that lawmakers believed, rightly or wrongly, that marijuana was addictive and/or dangerous," this is not dispositive of Mr. Bradley's claim. The United States Supreme Court has confirmed that racial discrimination need not have been the sole motivation for the passage of the prohibition in order to sustain an equal protection violation. Jurisprudence "does not require a plaintiff to prove that the challenged action rested solely on racially discriminatory purposes. Rarely can it be said that a legislature or administrative body operating under a broad mandate made a decision motivated solely by a single concern, or even that a particular purpose was the 'dominant' or 'primary' one." Village of Arlington Heights v. Metro. Hous. Dev. Corp., 429 U.S. 252, 265 (1975).

The remainder of the State's argument is of the same ilk raised by the State in

Hunter and rejected by the United States Supreme Court.[6] Here, the State proffers: "Even if Anslinger's motives were impure, however, there is no evidence our Legislature was aware of, much less shared those views" State's Brief at 11. "In sum, there is no indication that the Legislature was even aware of Anslinger's alleged bias, much less that it adopted the bill, and that the Governor signed it, because of improper, discriminatory motives." State's Brief at 12. In Hunter, the United States Supreme Court responded:

> Appellants contend that the State has a legitimate interest in denying the franchise to those convicted of crimes involving moral turpitude, and that § 182 should be sustained on that ground... At oral argument in this Court, appellants' counsel suggested that, regardless of the original purpose of § 182, events occurring in the succeeding 80 years had legitimated the provision. Some of the more blatantly discriminatory selections, such as assault and battery on the wife and miscegenation, have been struck down by the courts, and appellants contend that the remaining crimes -- felonies and moral turpitude misdemeanors -- are acceptable bases for denying the franchise. **Without deciding whether § 182 would be valid if enacted today without any impermissible motivation, we simply observe that its original enactment was motivated by a desire to discriminate against blacks on account of race and the section continues to this day to have that effect. As such, it violates equal protection under *Arlington Heights***. (Emphasis added) Hunter, at 232-233.

Consequently, even assuming *arguendo* that the Connecticut Legislature enacted cannabis prohibition in response to legitimate concerns, and absent overt racism, the fact remains

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[6] While the State attempts to distinguish Hunter on the basis of the blatant racial animus documented with respect to the passage and effect of §182, State's Brief at 12, it refuses to acknowledge that Mr. Bradley has presented equally compelling evidence of racial animus and disparate impact. See e.g. Appellant's Brief at 13: "Reefer makes darkies think they're as good as white men;" "Marihuana influences Negroes to look at white people in the eye, step on white men's shadows, and look at a white women twice;" "There are 100,000 total marijuana smokers in the US, and most are Negroes, Hispanics, Filipinos and entertainers. Their Satanic music, jazz and swing, result from marijuana usage. This marijuana causes white women to seek sexual relations with Negroes, entertainers and any others."

that it, as the State concedes, "adopted" an act that was motivated impermissibly by racial animus. As in Hunter, this remains a violation of the Equal Protection Clause.

Between the documented racism that motivated the Uniform State Narcotic Drug Act and the statistical evidence presented by Dr. Gettman, Mr. Bradley has more than established a prima facie case that Connecticut's cannabis prohibition was based in racial animus. "The burden of establishing a prima facie case is a burden of production, not a burden of proof, and therefore involves no credibility assessment by the fact finder...The level of proof required to establish a prima facie case is minimal and need not reach the level required to support a jury verdict in the plaintiff's favor." (Internal citations and quotations omitted) Craine v. Trinity College, 259 Conn. 625, 638 (2002).

The burden now shifts to the State. "With a prima facie case made out, the burden of proof shifts to the State to rebut the presumption of unconstitutional action..." (Internal citations and quotations omitted) Washington v. Davis, 426 U.S. 229, 241 (1976). See also Hunter, supra. at 228: "Once racial discrimination is shown to have been a 'substantial' or 'motivating' factor behind enactment of the law, the burden shifts to the law's defenders to demonstrate that the law would have been enacted without this factor." Before the trial court and this court, the State has not presented argument or evidence that Connecticut prohibition emanated from anything other than its adoption of the Uniform State Narcotic Drug Act, and in fact concedes the same. "The state therefore agrees that the desire for uniformity with other states was a substantial or motivating factor in prohibiting marijuana sales in the 1930s..." State's Brief at 9. Nor has the State presented any historical evidence to contradict the racial discriminatory impetus for the Uniform State Narcotic Drug Act. Moreover, the State's opposition to Mr. Bradley's arguments remains subject to strict

scrutiny. "...statutes are subject to strict scrutiny under the Equal Protection Clause not just when they contain express racial classifications, but also when, though race neutral on their face, they are motivated by a racial purpose or object." Miller v. Johnson, 515 U.S. 900, 913 (1995). In this case, the State has entirely failed to rebut Mr. Bradley's prima facie case.

The State has admitted that Connecticut's cannabis prohibition is an adoption of the Uniform State Narcotic Drug Act,[7] which "original enactment was motivated by a desire to discriminate against blacks on account of race and the section continues to this day to have that effect." Hunter, supra. at 233. Therefore, the statute is an unconstitutional violation of the Equal Protection clause, and the prosecution and conviction of Mr. Bradley pursuant to an unconstitutional statute is a violation of his due process rights.

III. CONCLUSION

WHEREFORE, for all the afore-stated reasons, the Defendant-Appellant, Mr. William Bradley, respectfully requests that this Court reverse the trial court's decision denying his Motions to Dismiss, order the charges dismissed, his convictions and corresponding sentences vacated, and all other relief this Court deems to be equitable and just.

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[7] State's Brief at 9.

Respectfully submitted,
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CERTIFICATION

Pursuant to Conn. Prac. Bk. § 67-2 and §67-3, the undersigned certifies that the reply brief of the defendant-appellant in the above captioned case complies with all format provisions and further certifies that a copy of said document was sent via first class mail this 17th day of April 2019 to: Hon. Maureen M. Keegan, J.D. & G.A. 9 Courthouse, 1 Court Street, Middletown , CT 06457 and Mr. James M. Ralls, Esq., Assistant State's Attorney, Juris No. 401844, Office of Chief State's Attorney, 300 Corporate Place, Rocky Hill, CT 06067, Tel. (860) 258-5807, Fax (860) 258-2828, james.ralls@ct.gov, in accordance with Conn. Prac. Bk. § 62-7. In addition, the attached was delivered via First Class mail to the Defendant-Appellant, Mr. William Hyde Bradley.

The undersigned attorney further certifies pursuant to Connecticut Rule of Appellate Procedure §67-2, that:

(1) the electronically submitted reply brief has been delivered electronically to the last known email address of each counsel of record for whom an e-mail address has been provided; and

(2) the electronically submitted reply brief and filed paper reply brief have been redacted or do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law; and

(3) the reply brief being filed with the appellate clerk is a true copy of the reply brief that was submitted electronically; and

(4) the reply brief complies with all provisions of this rule.

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